IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2007

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THE HONOURABLE MR. JUSTICE K. MOHAN RAM

CRIMINAL ORIGINAL PETITION NO.33226 OF 2007

E.Srinivasan ... Petitioner

Vs.

1. The State
   rep. by Inspector of Police
   All Women Police Station
   Secretariat Colony
   Chennai.
   Crime No.8/2006

2. J.N.Anandhi ... Respondents

PRAYER:Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records and quash the proceedings in the First Information Report made in Crime No.8 of 2006 on the file of the first respondent.

For Petitioner : Mr.B.Santhosh
For R1 : Mr. Hasan Mohamed Jinnah, G.A.(Crl.Side)
For R2 : Mr.V.Martin Kerwin

O R D E R

The above criminal original petition has been filed to quash the First Information Report in Crime No.8 of 2006 on the file of the first respondent.

2. During the pendency of the above petition, as seen from the affidavit filed by the second respondent, who is the defacto complainant/wife that herself and the petitioner herein, who is the husband of the defacto complainant, had arrived at an amicable settlement before the Mediation Centre, Chennai on 16.11.2006. Pursuant to the said settlement arrived at, they have filed O.P.No.2447 of 2007 before the II Additional Family Court, Chennai, and a decree for divorce has been granted on 21.8.2007. In the affidavit, the defacto complainant has stated that she would not pursue the criminal case in future.

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3. Heard the learned counsel for the petitioner, learned Government Advocate (Crl.Side) for the first respondent and the learned counsel for the second respondent.

4. Learned counsel for the petitioner by relying upon a decision in B.S. JOSHI AND OTHERS VS. STATE OF HARIYANA AND ANOTHER reported in AIR 2003 Supreme Court 1386 and in RUCHI AGARWAL VS. AMIT KUMAR AGARWAL reported in 2005(3) SCC 299, submitted that in the matrimonial matter, if the husband and wife amicably settled the dispute, this Court can invoke the power under Section 482 of Cr.P.C. so as to enable the parties to live in peace.

5. Learned Government Advocate (Crl.Side) appearing for the first respondent fairly submits that the First Information Report may be quashed by relying upon the aforesaid Apex Court decisions.

6. In the decision reported in AIR 2003 Supreme Court 1386 (B.S. JOSHI AND OTHERS VS. STATE OF HARIYANA AND ANOTHER), in paragraphs 12, 14 and 15, the Apex Court has observed as follows:-

> " 12. The special features in such matrimonial matters are evident. It becomes the duty of the Court to encourage genuine settlements of matrimonial disputes.
>
> 13. ...
>
> 14. There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian penal code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would get against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from setting earlier. That is not the object of Chapter XXA of Indian Penal Code.
>
> 15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code."

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7. In RUCHI AGARWAL VS. AMIT KUMAR AGARWAL reported in 2005(3) SCC 299, in paragraphs 7, 8 and 9, the Apex Court has observed as follows:-

> " 7. It is based on the said compromise the appellant obtained a divorce as desired by her under Section 13-B of the Hindu Marriage Act and in partial compliance with the terms of the compromise she withdrew the criminal case filed under Section 125 of the Criminal Procedure Code but for reasons better known to her she did not withdraw that complaint from which this appeal arises. That apart after the order of the High Court quashing the said complaint on the ground of territorial jurisdiction, she has chosen to file this appeal. It is in this background, we will have to appreciate the merits of this appeal.
>
> 8. ...Therefore, we are of the opinion that the appellant having received the relief she wanted without contest on the basis of the terms of the compromise, we cannot now accept the argument of the learned counsel for the appellant. In our opinion, the conduct of the appellant indicates that the criminal complaint from which this appeal arises was filed by the wife only to harass the respondents.
>
> 9. In view of the abovesaid subsequent events and the conduct of the appellant, it would be an abuse of the process of the Court if the criminal proceedings from which this appeal arises is allowed to continue. Therefore, we are of the considered opinion to do complete justice, we should while dismissing this appeal also quash the proceedings arising from criminal case Cr.No.224 of 2003 registered in Police Station Bilaspur (District Rampur) filed under Sections 498-A, 323 and 506 IPC and under Sections 3 and 4 of the Dowry Prohibition Act against the respondents herein."

8. A perusal of the said observations of the Apex Court makes it abundantly clear that if the parties to the matrimonial dispute amicably settle the dispute, then it becomes the duty of the Court to encourage genuine settlements of matrimonial disputes and the High Court in exercise of its inherent powers can quash the criminal proceedings or FIR or complaint.

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9. In view of the facts stated above and in the light of the Apex Court decisions, the criminal original petition is allowed and the First Information Report made in Crime No.8 of 2006 on the file of the first respondent, is quashed.

gs.

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1. The Inspector of Police
   All Women Police Station
   Secretariat Colony
   Chennai.

2. The Public Prosecutor
   High Court, Madras-104.

+ One cc to Mr. B. Santhosh, Advocate SR 27818

NTK (co)
sg 23/11/07

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